

**FILED**

**UNITED STATES DISTRICT COURT** **UNITED STATES DISTRICT COURT**  
ALBUQUERQUE, NEW MEXICO

**FOR THE DISTRICT OF NEW MEXICO** **APR 4 2003**

**EILEEN MONTOYA, et al.,**

Plaintiffs,

v.

**CIV. NO. 01-640 WJ/ACT**

**Consolidated with Civ. No. 01-1298 and**

**Civ. No. 01-1316 and Civ. No. 02-529.**

**LOS LUNAS PUBLIC SCHOOLS, an**  
**educational body of the State of New**  
**Mexico, et al.,**

Defendants.

**MAGISTRATE JUDGE'S PROPOSED FINDINGS AND RECOMMENDED**

**DISPOSITION<sup>1</sup>**

**THIS MATTER** comes before the Court on the Order on Motion for Partial Relief from Judgment, Order Setting Aside Memorandum Opinion and Order and Referral to Magistrate Judge. Docket No. 249. The United States Magistrate Judge having considered the relevant pleadings and being otherwise fully advised, makes the following Proposed Findings and Recommended

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<sup>1</sup>Timely objections to the foregoing may be made pursuant to 28 U.S.C. §636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to §636(b)(1)(C), file written objections to such proposed findings and recommendation with Clerk of the United States District Court, 333 Lomas Blvd. NW, Albuquerque, NM 87102. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

Disposition.

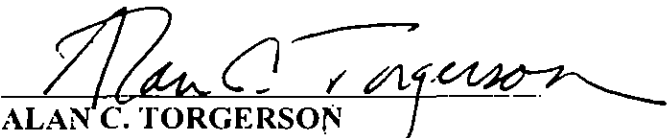
### **PROPOSED FINDINGS**

1. The Court entered a Memorandum Opinion and Order on March 31, 2003 denying the Motion to Sever Plaintiff Donna Gallo's Claims from the Consolidated Cases. Docket No. 243. I find no reason for any modification to that Order.

2. The Court entered a Memorandum Opinion and Order denying in part and granting in part Defendants' Motion to Strike Testimony of Expert as Untimely on March 21, 2003. Docket No. 226. In ruling on the Motion for Pretrial Relief from Order (Docket No. 238), the Court set aside that order in its entirety. I find that Ms. Gallo should be permitted to call Mr. Parkman as a witness regarding her damages providing she makes him available for his deposition no later than May 20, 2003.

### **RECOMMENDED DISPOSITION**

I recommend that the Court's order denying the Motion to Sever Plaintiff Donna Gallo's Claims from Consolidated Cases not be modified. I also recommend that the Court issue an order regarding Defendants' Motion to Strike Testimony of Expert as Untimely permitting Ms. Gallo to call Mr. Parkman as a witness providing she make him available for his deposition no later than May 20, 2003.

  
ALAN C. TORGERSON  
UNITED STATES MAGISTRATE JUDGE